

APPENDIX B

APPLICABLE OR RELEVANT AND APPROPRIATE REQUIREMENTS

**Chemical-Specific
Applicable or Relevant and Appropriate Requirements
Rainy Mine, Washington**

| Standard, Requirement Criteria, or Limitation | Citation | Description | Applicable/Relevant and Appropriate? |
|--|--|--|---|
| FEDERAL | | | |
| Safe Drinking Water Act (SDWA) | 40 USC § 300 | | |
| National Toxics Rule | 40 CFR Part 131 | Establishes water quality standards for protection of human health and aquatic organisms for states that fail to fully comply with Clean Water Act (CWA) Section 303(c)(2)(C). | Not Applicable—the State of Washington has been delegated this program. |
| National Primary Drinking Water Regulations | 40 CFR Part 141 | Establishes health-based standards, maximum contaminant levels (MCL) and maximum contaminant level goals (MCLG), for public water systems. | Potentially Relevant and Appropriate to potable surface water at the site; however, Removal Action does not involve a public water supply. |
| Clean Water Act (CWA) | 33 USC §§ 1314 | | |
| National Recommended Water Quality Criteria (NWQC) | 33 USC § 1251 et seq., Section 304(a), 40 CFR Part 131 | Establishes non-enforceable criteria for water quality based on toxicity to aquatic organisms and human health. | Not Applicable—the State of Washington has been delegated this program. Recommended but not enforceable criteria. |
| Clean Air Act (CAA) | 40 USC § 7409 | | |
| National Primary and Secondary Ambient Air Quality Standards (NAAQS) | 42 USC §§ 7401 et seq. | Establishes air quality levels that protect public health. | Not Applicable—only “major” sources are subject to requirements related to NAAQS, defer to state regulation of fugitive dust emissions. |
| Resource Conservation and Recovery Act (RCRA) | 40 USC § 6901-6992k | | |
| Hazardous Wastes | 40 CFR Part 261, Subpart D and C | Defines those solids wastes which are subject to regulation as hazardous wastes under 40 CFR Parts 262-265 and Parts 124, 270, and 271. | Potentially Applicable or Relevant and Appropriate. Washington has not adopted the Bevill Amendment for mining waste. See action-specific ARARs for further discussion. |

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| STATE OF WASHINGTON | | | |
| Hazardous Waste Removal Reduction Act | RCW Chapter 70.95C | Establishes state policies and goals that encourage the reduction of hazardous substance use and the generation of hazardous waste. Requires certain hazardous waste generators and hazardous substance users to prepare plans for voluntarily reducing hazardous substance use and hazardous waste generation. | Potentially Relevant and Appropriate |
| Persistent Bioaccumulative Toxins Rule | WAC Chapter 173-333 | Establishes criteria to identify persistent bioaccumulative toxins that pose human health or environmental threats, defines chemical action plans preparation, and defines the processes ecology will use to coordinate the implementation of this chapter with the department of health and other agencies. | Potentially Relevant and Appropriate |
| Surface Water Beneficial Uses | WAC Chapter 173-201A-200 and -600 | Requires that surface water bodies be protected for their designated beneficial uses | Potentially Relevant and Appropriate |
| Dangerous Waste Regulations | WAC Chapter 173-303 | (1) Designates solid wastes that are dangerous or extremely hazardous to the public health and environment; (2) provides for surveillance and monitoring of dangerous and extremely hazardous wastes; (3) establishes a system for manifesting, tracking, reporting, monitoring, recordkeeping, sampling, and labeling dangerous and extremely hazardous wastes; (4) establishes siting, design, operation, closure, postclosure, financial, and monitoring requirements for dangerous and extremely hazardous waste transfer, treatment, storage, and disposal facilities; (5) establishes design, operation, and monitoring requirements for managing the state's extremely hazardous waste disposal facility; (6) establishes a program for permitting dangerous and extremely hazardous waste management facilities; and (7) encourages recycling, reuse, reclamation, and recovery to the maximum extent possible. | Potentially Relevant and Appropriate |

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| STATE OF WASHINGTON (continued) | | | |
| Drinking Water Standards | Revised Code of Washington (RCW) 70.119A, WAC Chapter 246-290 | Established health-based MCLs for public water supplies. | Potentially Relevant and Appropriate to surface water drinking sources at the site. |
| Water Quality Standards for Surface Water | RCW 90.48, WAC Chapter 173-201A | Establishes aquatic life criteria for hazardous substances in freshwater. | Potentially Applicable. State of Washington is authorized by EPA to implement CWA. |
| Model Toxics Control Act (MTCA) | RCW 70.105D, WAC Chapter 173- 340 | Specifies that surface water cleanup standards be based on estimates of the highest beneficial use and the reasonable maximum potential exposure under current and future site uses. Establishes administrative processes and standards to identify, investigate, and clean up facilities where hazardous substances have come to be located. It defines the role of the department and encourages public involvement in decision making. | Potentially Relevant and Appropriate |
| | WAC Chapter 173- 340-7490 | Specifies procedures for a Terrestrial Ecological Evaluation (TEE) to determine if the existence of hazardous substances at a site could harm terrestrial plants or animals, and to establish cleanup levels to protect biota. | Potentially Relevant and Appropriate |
| Natural Background Soil Metals Concentrations | WDOE Publication 94-115, October 1994 | Defines region-specific natural background concentrations for metals in surficial soils throughout the state. | To Be Considered |
| Sediment Management Standards | WAC 173-204 | Establishes freshwater surface sediment management standards. | Potentially Relevant and Appropriate |
| Economic Impact Statement For Proposed Sediment Management Standards | WAC 173-204 | The WDOE is proposing a management process for implementing sediment quality standards pursuant to requirements of the Model Toxics Control Act, the Water Pollution Control Act, and the Puget Sound Water Quality Authority Act. | To Be Considered |

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| FEDERAL | | | |
| RCRA | 40 USC § 7601 | | |
| Hazardous and Solid Waste Regulations | 40 CFR Part 264.18 | Location standards and restrictions for hazardous waste treatment, storage, and disposal (TSD) facilities. | Potentially Relevant and Appropriate |
| | 40 CFR §§ 257.3-1 through 257.3-4 | Location standards and restrictions for municipal solid waste (MSW) facilities. | Potentially Relevant and Appropriate |
| Fish and Wildlife Coordination Act | 16 USC §§ 661-667 | Requires consultation with the USFWS when federal department or agency proposes or authorizes any modification of any stream or other water body to assure adequate protection of fish and wildlife resources. | Potentially Applicable |
| Fish and Wildlife Conservation Act | 16 USC §§ 2901-2911 | Promotes conservation of non-game fish and wildlife through assistance to states and use of federal authority. | Potentially Applicable |
| Protection of Wetlands Executive Order No. 11990 | 40 CFR Part 6; Appendix A, 40 CFR 6.302(a) | Established to avoid adverse impacts associated with the destruction or loss of wetlands and avoid support of new construction in wetlands if a practicable alternative exists. | Potentially Applicable |
| Floodplain Management Executive Order No. 11988 | 40 CFR Part 6, Appendix A 40 CFR 6.302(b) | Requires federal agencies to evaluate the potential effects of actions they may take in a floodplain to avoid the adverse impacts associated with direct and indirect development of a floodplain to the extent possible. | Potentially Applicable |
| Dredge and Fill Regulations | 33 USC § 1344, 33 CFR 323.1 et seq. | Prohibits discharge of dredged or fill material into waters of the United States without a permit | Potentially Relevant and Appropriate |
| Bald Eagle Protection Act | 16 USC §§ 668 et seq. | Requires continued consultation with the USFWS during remedial design and remedial construction to ensure that any cleanup of the site does not unnecessarily adversely affect the bald or golden eagle. | Applicable Requirement |
| Endangered Species Act (ESA) | 16 USC §§ 1531-1544 | Outlines procedures for federal agencies to follow if actions may jeopardize listed species. Activities may not jeopardize the continued existence of any threatened or endangered species or destroy or adversely modify a critical habitat. | Potentially Applicable |

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| FEDERAL (continued) | | | |
| National Forest Management Act (NFMA), Mt. Baker Snoqualmie NF Land and Resource Management Plan (LRMP, 1989), as amended by Pacific Northwest Forest Plan (NWFP, 1994) and subsequent amendments (2001, 2004, and 2007) | 16 USC §§ 1600-1614 | NFMA requires land management based on multiple-use, sustained-use yields. The LRMP and NWFP establish guidelines and standards for design, construction, and use of various actions on USFS land. | Potentially Applicable or Relevant and Appropriate |
| National Historic Preservation Act (NHPA) | 16 USC § 470; 36 CFR Part 800 40 CFR 6.301(b) | Requires federal agencies to take into account the effect of any federally assisted undertaking or licensing on any property with historic, architectural, archeological, or cultural value that is included in or eligible for inclusion in the National Register of Historic Places. | Potentially Applicable |
| Archaeological Resources Protection Act | 16 USC § 470 | Specifies actions that must be taken to preserve archaeological resources. | Potentially Applicable |
| Archeological and Historic Preservation Act (AHPA) | 16 USC § 469 40 CFR 6.301(c) | Establishes procedures to provide for preservation of significant scientific, prehistoric, historic, and archeological data that might be destroyed through alteration of terrain as a result of a federal construction project or a federally licensed activity or program. | Potentially Applicable |
| Historic Site, Buildings, Objects, and Antiquities Act | 16 USC § 461-467 | Requires preservation of historic sites, buildings, and objects of national significance. | Potentially Applicable |
| Native American Graves Protection and Reparation Act | 25 USC § 3001 et seq. | Establishes protective requirements to be followed when graves or Native American burial sites are encountered. | Potentially Applicable |
| The American Indian Religious Freedom Act (AIRFA) | 42 USC § 1996 | Requires federal agencies to protect the right of Indian tribes to practice their traditional religions. | Potentially Applicable |
| Wilderness Act | 16 USC §§ 1131-1136 | Established the National Wilderness Preservation System, which concerns leaving lands unimpaired for future use as a wilderness. | Potentially Applicable |

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| Clean Water Act | 33 USC § 1342 | | |
| National Pollutant Discharge Elimination System | 40 CFR Part 122.26 | In general, Part 122 provides permit requirements for the discharge of pollutants from any point source into waters of the United States. Part 122.26 requires permits for storm-water discharges. | Potentially Applicable |
| CWA – Water Pollution Control Act (WPCA), Water Quality Certification | 33 USC § 1341, Section 401 | Requires certification from the state (WDOE) that discharges into navigable waters comply with applicable water quality standards. | Potentially Applicable |
| CWA/WPCA – National Pollution Discharge Elimination System (NPDES) | 33 USC § 1342, Section 402 | Establishes requirements for point source discharges and stormwater runoff. | Potentially Applicable |
| CWA/WPCA – Discharge of Dredge and Fill Materials | 33 USC § 1344, Section 404 | Regulates the discharge of dredge and fill into waters of the United States, including wetlands. | Potentially Applicable |
| Clean Air Act | 42 USC § 7401 et seq., 40 CFR Part 50 | Establishes limits for air emissions. | Potentially Applicable |
| Land Disposal Restrictions (LDRs) | 40 CFR Part 268 | LDRs place specific restrictions (conc. or trmt) on RCRA hazardous wastes prior to their placement in a land disposal unit. Relevant and appropriate LDR requirements will be met if any material accumulations are treated <i>ex situ</i> . | Applicable Requirement |
| RCRA Subtitle C – Hazardous Waste Management | 42 USC § 6901, 40 CFR Parts 260 to 279 | Specifies hazardous waste identification, management, and disposal requirements. | Potentially Applicable |
| Subtitle D – Managing Municipal and Solid Waste | 42 USC § 6901, 40 CFR Parts 257 and 258 | Establishes guidelines for the management of non-hazardous solid waste. | Potentially Applicable |
| Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal (TSD) Facilities | 40 CFR Part 264.13.14 | Requirements for proper handling, treatment, storage, and disposal of hazardous wastes. | Potentially Applicable |
| Disposal of Solid Waste | 42 U.S.C. § 6901 et seq; 40 CFR 257 | Facility or practices in floodplains will not restrict flow of basic flood, reduce the temporary water storage capacity of the floodplain or otherwise result in a wash-out of solid waste. | Potentially Applicable |

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| FEDERAL (continued) | | | |
| Closure Requirements | RCRA/HWMA 40 CFR & 264, Subpart G | Closure of hazardous waste repositories must meet protective standards. Regulations to minimize contaminant migration, provide leachate collection and prevent contaminant exposure will be met. | Potentially Applicable |
| Landfill Design and Construction | RCRA/HWMA 40 CFR & 264, Subpart N | Hazardous waste landfills must meet minimum design standards. Protectiveness will be achieved through capping and institutional controls. | Potentially Applicable |
| Groundwater Monitoring | RCRA/HWMA 40 CFR & 264, Subpart F 40 CFR & 264, Subpart X | Establishes standards for detection and compliance monitoring. Site wide monitoring will accommodate specific groundwater monitoring requirements. | Not Applicable or Relevant and Appropriate. Treatment of groundwater is outside the Removal Action scope. |
| Occupational Exposure to Asbestos | 29 CFR Parts 1910 and 1926. | Establishes OSHA requirements for asbestos-related work in the construction and demolition industry. Requirements on exposure limits, work practices and engineering controls to provide worker safety in handling, removal, disposal, or other workplace exposure to asbestos. | Potentially Relevant and Appropriate |
| Superfund Remedial Design and Remedial Action Guidance | EPA OSWER Directive 9355.0-4A, June 1986 | Provides guidance for site remediation and the design of remedial action components. | To Be Considered |
| Hazardous Materials Transportation Act | 49 USC §§ 1801-1813 49 CFR Parts 10, 171-177 | Regulates transportation of hazardous materials. | Potentially Applicable |
| Surface Mining Control and Reclamation Act | 30 USC §§ 1201-1328 | Performance standards for surface mining activities. | Potentially Relevant and Appropriate |
| Indian Sacred Sites | Executive Order 13007 | Requires federal agencies to avoid physical damage to Indian sacred sites and to avoid interfering with access to such sites. | To Be Considered |
| Protection and Enhancement of the Cultural Environment | Executive Order 11593 | Directs federal agencies to nominate historic properties to the NRHP and treat properties that are eligible for the NRHP as though they were listed. | To Be Considered |

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| FEDERAL (continued) | | | |
| Invasive Species | Executive Order 13112 | Requires federal agencies to prevent the introduction of invasive species. | To Be Considered |
| Migratory Bird Treaty Act (MBTA) | 16 USC §§ 703 et seq. | Establishes federal responsibility for the protection of the international migratory bird resource and requires continued consultation with the USFWS during remedial design and remedial construction to ensure that the cleanup of the site does not unnecessarily impact migratory birds. | Potentially Relevant and Appropriate |
| Responsibilities of Federal Agencies to Protect Migratory Birds | Executive Order 13186 | Requires federal agencies to avoid or minimize adverse impacts to migratory bird resources to the extent practical. | To Be Considered |

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| STATE OF WASHINGTON | | | |
| MTCA | RCW 70.105D, WAC Chapter 173-340 | Establishes procedures and standards for investigating and cleaning up sites with hazardous substances present. | Potentially Applicable |
| Sediment Management Standards | WAC 173-204 | Establishes freshwater surface sediment management standards. | Potentially Relevant and Appropriate |
| Regulation and Licensing of Well Contractors and Operators | RCW 18.104, WAC Chapter 173-162 | Establishes procedures for well contractors and operators. | Potentially Applicable |
| Minimum Standards for Construction and Maintenance of Water Wells | RCW 18.104, WAC Chapter 173-160 | Sets minimum standards for the construction of water and monitoring wells, and well decommissioning. | Potentially Applicable |
| Hazardous Waste Management Act and Dangerous Waste Regulations | RCW 70.105, WAC Chapter 173-303 | Establishes regulations for the handling and deposition of dangerous waste, including identification, accumulation, storage, transport, treatment, and disposal. | Potentially Applicable – Washington has not adopted the Bevill Amendment for mining wastes. |
| Solids Waste Handling Standards | RCW 70.95, WAC Chapter 173-350 | Establishes standards for the proper handling and disposal of solid waste, and requirements for the design, construction, operation, and closure of solid waste handling facilities. | Potentially Applicable or Relevant and Appropriate |
| Hydraulic Code | RCW 77.55, WAC Chapter 220-110 | Requires a Hydraulics Project Approval permit for construction activities that use, divert, obstruct, or change the bed or flow of state waters. | Substantive provisions potentially Applicable |
| Shoreline Management Act (SMA) | RCW 90.58 | Established to prevent harm to the state's shorelines, including streams with a mean annual flow greater than 20 cubic feet per second. | Applicable Requirement |
| Fugitive Dust Emissions | 40 CFR Section 50.6 | Establishes standards for PM-10 | Applicable Requirement |
| Water Quality Standards for Surface Waters – Mixing Zones | RCW 90.48, WAC Chapter 173-201A-400 | Establishes mixing zone effluent limits for discharges to surface water. | Potentially Applicable |
| Water Quality Standards for Surface Waters – Short-term Modifications | RCW 90.48, WAC Chapter 173-201A-410 | Allows for short-term modification to water quality criteria for specific water bodies when necessary. | Potentially Applicable |
| Submission of Plans and Reports for Construction of Wastewater Treatment Facilities | RCW 90.48, WAC Chapter 173-240 | Requires submission of wastewater treatment systems designs to the WDOE for review and approval. | Potentially Applicable |

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| STATE OF WASHINGTON (continued) | | | |
| Aquatic Lands Management | RCW 79.90, WAC Chapter 332-30 | Establishes criteria for the management of state-owned aquatic lands to promote uses and protect resources. | Potentially Applicable |
| Water Code and Regulation of Public Groundwater – Surface Water and Groundwater Withdrawal | RCW 90-90.03 and 90.44 | Specify criteria and procedures for appropriating surface water and groundwater for beneficial uses. | Potentially Applicable |
| Maximum Environmental Noise Levels | RCW-70.107, WAC Chapter 173-60 | Establishes maximum permissible noise levels. | Potentially Applicable |
| Washington Clean Air Act and Implementing Regulations | WAC Chapter 173-400-040(8) | Requires reasonable precautions be taken to prevent the generation of fugitive dust. | Potentially Relevant and Appropriate |
| General Regulations for Air Pollution Sources | RCW 70.94, WAC Chapter 173-400 | Regulates air pollution from contaminant sources, and establishes rules for the control and prevention of air contaminant emissions. | Potentially Applicable |